

10 CIV. 03021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Luis Garcia

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

OFFICER SMITH #14520
OFFICER REID #7158
CAPTAIN STEWART-BOWDEN #1225
OFFICER THOMPSON #17517
OFFICER SALEY #16533
OFFICER VALERIO #13830
CAPTAIN MASSEY #126
CAPTAIN GARCIA #1632
OFFICER OKWIST #15169

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Luis Garcia
ID # 441-09-10203
Current Institution H.M.C. G.R.V.C.
Address 89-09 HAZEN ST EAST ELMHURST NY
11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

15080 .8001

Defendant No. 1 Name OFFICER SMITH Shield # 18520
 Where Currently Employed G.R.V.C
 Address 09-09 HAZEN ST EAST ELMHURST
N.Y. 11370

Defendant No. 2 Name OFFICER REID Shield # 7158
 Where Currently Employed G.R.V.C
 Address 09-09 HAZEN ST EAST ELMHURST
N.Y. 11370

Defendant No. 3 Name CAPTAIN STEWART Shield # 1225
 Where Currently Employed G.R.V.C
 Address 09-09 HAZEN ST EAST ELMHURST
N.Y. 11370

Defendant No. 4 Name OFFICER THOMPSON Shield # 17517
 Where Currently Employed G.R.V.C
 Address 09-09 HAZEN ST EAST ELMHURST
N.Y. 11370

Defendant No. 5 Name OFFICER SALLEY Shield # 18533
 Where Currently Employed G.R.V.C
 Address 09-09 HAZEN ST EAST ELMHURST
N.Y. 11370

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? G.R.V.C

B. Where in the institution did the events giving rise to your claim(s) occur? 12 Main Mental Clinic

C. What date and approximate time did the events giving rise to your claim(s) occur? 1540 Hours

DEFENDANT No. 6

NAME OFFICER VALERTO

SHIELD # 13830

WHERE CURRENTLY EMPLOYED G.R.V.C

ADDRESS 09-09 HAZEN ST EAST ELMHURST N.Y. 11370

DEFENDANT No. 7

NAME CAPTAIN MASSEY

SHIELD # 126

WHERE CURRENTLY EMPLOYED G.R.V.C

ADDRESS 09-09 HAZEN ST EAST ELMHURST N.Y. 11370

DEFENDANT No. 8

NAME CAPTAIN GARCIA

SHIELD # 11632

WHERE CURRENTLY EMPLOYED G.R.V.C

ADDRESS 09-09 HAZEN ST EAST ELMHURST N.Y. 11370

DEFENDANT No. 9

NAME OFFICER OKVIST

SHIELD # 18169

WHERE CURRENTLY EMPLOYED G.R.V.C

ADDRESS 09-09 HAZEN ST EAST ELMHURST N.Y. 11370

D. Facts: SEE ATTACH

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. RIGHT SIDE OF MY FACE VERY SWOLLEN, 3 LACERATIONS 1, ON MY FOREHEAD 1 ABOVE MY LIP AND THE 3RD ONE INSIDE MY MOUTH. MULTIPLE FACIAL INJURIES, SEE MEDICAL RECORDS FOR BETTER OVER ALL LOOK.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes X No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

G.R.V.C

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No Do Not Know

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes No X Do Not Know

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes No X

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes No X

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

NON GRIEVABLE ISSUE

1. Which claim(s) in this complaint did you grieve?

2. What was the result, if any? NON GRIEVABLE ISSUE

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

NON GRIEVABLE ISSUE

THE MATTER DOES NOT FALL UNDER THE PURVIEW OF THE IGPP

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NON GRIEVABLE ISSUE ACCORDING TO THE
GRIEVANCE DIRECTIVE AND ALSO THE MATTER
DOES NOT FALL UNDER THE PURVIEW OF THE
I.G.P.P.

2. If you did not file a grievance but informed any officials of your claim, state who you

informed, when and how, and their response, if any: _____

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

N/A

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). I WOULD LIKE THE COURT

TO REACH A SETTLEMENT WITHIN THE AMOUNT
OF 10.5 MILLION DOLLARS. I WOULD LIKE
THESE OFFICERS BROUGHT TO JUSTICE.

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes _____ No ☒

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 28 day of FEBRUARY, 2010.

Signature of Plaintiff _____

Inmate Number

441-09-10203

Institution Address

1500 HAZEN ST EAST
ELMHURST NY 11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 28 day of FEBRUARY, 2010, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____



On 1/3/10, I was escorted by Officer Smith #18520 to Medical from Housing Area 13B-20C in G.R.V.C Facility. As Me and Officer Smith #18520 were walking down to Medical, I noticed how I had a seizure in my cell Housing Area 13B-20C. I also told him I let the officers in the Housing Area know which they did nothing about the situation. Upon arrival of Medical, as Me and Officer Smith #18520 entered the Nurses Station, Officer Smith #18520 said or did anything to tell Medical about what I told him. The nurse walked up to Me to give Me my seizure medication and I told her I had a seizure in my cell. I asked her why was I not called down for my medication. She stated the escorting officer told her the whole 13B building refuse to get there medication. (Check Housing Area Log Book) I don't know the nurse name, but she said she notified the Captain for the Area.

The nurse even said something was wrong. The same nurse went and told Officer Smith #18520 that he had to call the Area Captain cause I told her I had a seizure. Officer Smith #18520 was very upset due to the fact that he had to do paper work and write an incident report. I was then escorted by Officer Smith #18520 to an area called 12 Main Mental Clinic. As I had to wait for the nurse and doctor, Officer Smith #18520 cuffed me to a metal bar on the wall and waited for the nurse and doctor. Officer Smith #18520 stated to me "Now I got to write but you will see." He was looking at me in a way it felt unsafe. The nurse and the doctor entered the room to examine me as they were done and walked out the room to determine what to do. Officer Smith #18520 said now it is time to go back to 13B-20C. I told Officer Smith #18520 I refuse to go back to 13B-20C cause I feared of having more seizures and the officers working on the above date would just watch me and do nothing to notify Medical of me. I am a

IN WHICH I LEFT HIS POST LO HELP OFFICER DITCH #16520 BY
 PUNCHING ME AND KICKING ME IN MY BACK MY RIBS ALSO
 MY FACE. ONE OFFICER PUSHED HIS (PBA) PERSONAL BODY ALARM
 WHEN THE PROBE TEAM ARRIVED TO 12 MAIN MENT CLINTC.
 NOW I'M BEING ASSAULTED BY CAPTAIN STEWART-BOWEN #1225,
 BY HER KICKING ME IN MY RIBS AND MY BACK AS OFFICER
 THOMPSON #17517 ASSAULTED ME BY HITTING ME WITH
 WOODEN STICKS MANY TIMES IN MY BACK, HEAD AND LEGS.
 OFFICER SALLEY #16533 ALONG WITH OFFICER VALENTI #13830
 PUNCHED AND KICKED ME IN MY FACIAL AREA MY RIBS ALSO
 MY BACK. OFFICER OKWIST #18169 AND CAPTAIN MASSEY #126
 ASSAULTED ME BY PUNCHING AND KICKING ME IN MY CHEST
 ALSO MY BACK AND RIB AREA. MOST OF THE OFFICERS LEFT,
 I LAYED ON THE FLOOR FACE ALL BLOODY MY BODY WAS
 IN PAIN, I COULD NOT SEE STRAIGHT. I PRAYED TO GOD
 FOR THIS ASSAULT TO COME TO A END BUT CAPTAIN GARCIA #1632
 (NO RELATION) WAS ASSAULTING ME BY HIM PUNCHING ME
 IN MY BODY AND ALSO TOLD HIS OFFICERS, OFFICER SALLEY #
 16533 AND OFFICER VALENTI #13830 NO MORE FACE SHOTS ALL
 BODY BLOWS AND OFFICER SALLEY #16533 AND OFFICER VALENTI #
 13830 KEPT PUNCHING ME IN MY RIBS MY STOMACH AND
 CHEST. CAPTAIN GARCIA #1632 STATED WHILE PUNCHING ME
 THAT I LOOKED LIKE HIS PUNCHING BAG FROM WHEN HE
 USE TO BOX.

IN THE PROCESS I HAD TUNNEL VISION AND I WENT INTO
 A SEIZURE DUE TO THE HEAD SHOTS AND ME NOT GETTING MY
 MEDICATION. I WAS BEATEN VERY BAD, I WAS SENT OUT
 E.M.S TO ELMHURST HOSPITAL. I HAD LACERATIONS ABOVE MY
 LIP, INSIDE MY MOUTH ALSO ON MY FOREHEAD AND BLACK &
 BLUES ALL OVER MY BODY. WHEN I REACH ELMHURST
 HOSPITAL AND WAS EXAMINED BY THE DOCTOR AND MY BLOOD
 WAS TAKEN, THE RESULTS CAME BACK WITH MY SEIZURE
 MEDICATION LEVEL VERY LOW. THAT SHOWED THAT I WAS
 NOT GETTING MY MEDICATION. THE DOCTOR ASKED ME WAS
 I GETTING MY MEDICATION AND I TOLD HIM I WAS
 BEING DENIED MY MEDICATION AT G.R.V.C FACILITY. I
 FEARED FOR MY LIFE AND THESE OFFICERS BEAT ME ALL
 CAUSE I WOULD NOT GO BACK TO HASTING AREA 13B-20 CELL
 CAUSE MY MEDICATION WAS BEING DENIED TO ME. ACCS

Violence Was Inflicted Also My Due Process Was Violated As Well As These Officers Violating Their Institutional Rules And Regulations Incorporated By The New York City Department Of Correction In Regards To My Care, Custody And Control. Cruel And Unusual Punishment Was Inflicted A Violation Of My 8th Amendment. These Are Criminals With Badges And Should Be Brought To Justice.

1) Correction Officer Smith #18520 Violated My 8th Amendment Right By Inflicting Acts Of Violence By Assaulting Me Punching And Kicking Me In My Facial Area Also My Back And Ribs To Using Unnecessary Use Of Force All Case I Told Him I Feared Going Back To Housing Area 13B-20 Cell Cause They Were Not Escorting Me To Get My Seizure Medication.

2) Correction Officer Reid #7158 Violated My 8th Amendment By Inflicting Acts Of Violence By Punching And Kicking Me Along With Officer Smith #18520 To Inflict Body Harm To Me With Intention.

3) Correction Officer Captain Stewart-Bowden #1225 Violated My 8th Amendment Right By Kicking Me In My Ribs Also My Back. She Also Violated My Due Process As Well As Her Institutional Rules And Regulations Incorporated By The New York City Department Of Correction In Regards To My Care Custody And Control. Cruel And Unusual Punishment Was Inflicted.

4) Correction Officer Thompson #17517 Violated My 8th Amendment Right By Assaulting Me With Wooden Sticks Many Times In My Back My Head And Legs. Cruel And Unusual Punishment Was Inflicted In My

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U.S. CORRECTION OFFICER CAPTAIN LASSEY #1216 VIOLATED MY
8TH AMENDMENT RIGHT BY KICKING AND PUNCHING ME
CAUSING ME EXTREME PAIN TO MY BODY. CRUEL AND
UNUSUAL PUNISHMENT WAS INFLICTED.

⑧ CORRECTION OFFICER CAPTAIN GARCIA #1632 (NO RELATION)
VIOLATED MY 8TH AMENDMENT RIGHT BY PUNCHING ME
IN MY BODY ALSO ENCOURAGING OFFICER SALLEY #18533
AND OFFICER VALERIO #13830 TO CAUSE ME EXTREME HARM
TO MY WELL BEING.

⑨ CORRECTION OFFICER OKVOT #18169 VIOLATED MY 8TH
AMENDMENT BY ACTS OF VIOLENCE BY PUNCHING AND KICKING
ME IN MY BACK REBS AND MY CHEST AREA. MY DUE
PROCESS WAS ALSO VIOLATED AS WELL AS THE RULES
AND REGULATIONS INCORPORATED BY THE NEW YORK CITY
DEPARTMENT OF CORRECTIONS DUE TO MY CARE CUSTODY AND
CONTROL. CRUEL AND UNUSUAL PUNISHMENT WAS INFLICTED

PENDANT CAUSE OF ACTION THE ALLEGATIONS SET FORTH
IN PARAGRAPH 1 THROUGH 9 ARE INCORPORATED HERETIN BY
REFERENCE.

COURT I 42 U.S.C 1983 8TH AMENDMENT CRUEL
AND UNUSUAL PUNISHMENT. THE CITY OF NEW YORK IS
RESPONSIBLE FOR THESE CORRECTION OFFICERS ACTIONS AND
WERE ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT
WHEN THESE OFFICERS ATTACKED LUIS GARCIA IN THE
DEPARTMENT OF CORRECTIONS.

COURT II 42 U.S.C 1983 14TH AMENDMENT
HAS BEEN VIOLATED AND THE CITY OF NEW YORK,
DEPARTMENT OF CORRECTIONS IS RESPONSIBLE BECAUSE AT
THE TIME THE DEFENDANTS WERE ACTING WITHIN THE
SCOPE OF THEIR EMPLOYMENT.

JURISDICTION AND VENUE 28 U.S.C 1331
THE FOLLOWING PROVISIONS CONFER JURISDICTION ON THIS
COURT (I) 28 U.S.C WHICH AUTHORIZES JURISDICTION IN THE

DISTRICT COURTS OF CIVIL ACTIONS UNDER CONSTITUTION LAWS AND TREATIES OF THE UNITED STATES (2) 28 U.S.C. WHICH AUTHORIZES JURISDICTION IN THE DISTRICT COURTS OF ACTIONS ARISING UNDER 42 U.S.C. 1983. VENUE IN THIS DISTRICT IS PROPER PURSUANT TO 28 U.S.C. IN THAT THE PLAINTIFF CAUSE OF ACTIONS AROSE IN QUEENS COUNTY OR BRONX COUNTY WHICH IS IN THE SOUTHERN DISTRICT OF NEW YORK.

NEW YORK CITY DEPARTMENT OF CORRECTION IS A MUNICIPAL CORPORATION WITHIN THE STATE OF NEW YORK.

WHEREFORE: PLAINTIFF DEMANDS THE FOLLOWING RELIEF JOINTLY AND SEVERALLY AGAINST ALL THE DEFENDANTS:

A. COMPENSATORY DAMAGES IN THE AMOUNT OF 2.5 MILLION DOLLARS

B. PUNITIVE DAMAGES IN THE AMOUNT OF 4 MILLION DOLLARS.

C. SUCH OTHER AND FURTHER RELIEF AS THIS COURT MAY DEEM JUST AND PROPER.

D. PLAINTIFF DEMANDS TRIAL BY JURY.

